

REMARKS/ARGUMENTS

In view of the amendments and remarks herein, favorable reconsideration and allowance of this application are respectfully requested. By this Amendment, claims 51, 69, 71-72, 74-75, and 79 have been amended, solely for clarity and to simplify the issues on appeal. Thus, claims 43-79 are pending for further examination.

Formalities-Based Objection and Rejections

The specification was objected to as allegedly failing to provide proper antecedent basis for the claimed subject matter. In particular, the Examiner appears to have taken issue with the recitation in claim 71 that the “second display [is] configured to enable a user to select the instance of media for playback.” In a perhaps related issue, claims 71-79 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Similar to the objection to the specification, it appears that the Examiner has taken issue with “the presence of multiple displays as claimed in at least claim 71.”

Applicant notes, however, that Figs. 3 and 5 of the instant application, for example, visually depict first and second displays, with each display enabling a user to select an instance of media for playback on the jukebox. Additionally, as described at paragraphs 29-30 of the instant specification, for example, a user can use the “Tune Central” feature to search for a song instead of browsing via the standard library of songs, in certain exemplary embodiments of Applicant’s claimed invention. It therefore is apparent that specification fully supports a first display (e.g., the standard library display), as well as a second display (e.g., the result screen when the “Tune Central” feature is used to search for songs), with each of the displays enabling a user to select an instance of media for playback. In order that there be no doubt on this issue,

Applicant has amended claim 71 (and the claims dependent therefrom, for consistency) to require first and second display screens, thus indicating that a single display device is capable of displaying multiple display screens.

Accordingly, reconsideration and withdrawal of the objection to the specification and the Section 112, First Paragraph, rejection are respectfully requested.

Claims 51 and 69-79 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.¹ This rejection is respectfully traversed for at least the following reasons.

Without acquiescing to the propriety of the rejection, Applicant has amended claims 51 and 69 to make clear that each instance of media in the second plurality of instances of media is encrypted with a layer of encryption different from the first encryption level, thus mooted the rejection of claims 51 and 69-70 based on the recitation of a “second layer of encryption.”

Additionally, without acquiescing to the propriety of the rejection, Applicant has amended claim 79 to recite that “the first and second display screens are each configured to prompt a user to supply an additional fee or number of credits in order to make the selected instance of media play immediately after a currently playing instance of media,” which is quite similar to the Examiner’s interpretation of these claims, as Applicant asserts that this is how one of ordinary skill in the art would have interpreted the previous recitations. Thus, this rejection of claims 79 also is now mooted.

¹ Applicant is uncertain how or why claims 71-78 are rejected under 35 U.S.C. § 112, second paragraph, as there is no corresponding detail for such rejections. Indeed, each of these claims appears to be clear and definite and thus in full compliance with the strictures of Section 112, Second Paragraph. Applicant therefore requests clarification as to the grounds for this rejection in the next Office Action in the event that it is maintained.

Accordingly, reconsideration and withdrawal of the Section 112, Second Paragraph rejection are respectfully requested.

In view of the above, Applicant respectfully submits that all formal matters have been resolved.

Rejection under 35 U.S.C. § 102(b)

Claims 43-45, 47-49, 53-55, 57-63, and 65-67 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Knowles (U.S. Patent No. 5,481,509). This rejection is respectfully traversed for at least the following reasons.

Claim 43 recites, *inter alia*, “a first storage location storing a first plurality of instances of media available for playback via the jukebox device for a first fee or number of credits; [and] a second storage location storing a second plurality of instances of media available for playback via the jukebox device for a second fee or number of credits, the second fee or number of credits being higher than the first fee or number of credits.” Claims 53 and 61 require similar features. Knowles does not disclose these features of claim 43, or the similar features of claims 53 and 61. Thus, Knowles does not anticipate claims 43, 53, or 61 (or their respective dependents).

Knowles discloses a jukebox that includes one or more hard disk drives 52. As made clear at col. 3, lines 33-43 of Knowles, the hard drives store a computer program that causes the computer system 50 to operate as a jukebox, and the hard drives also store the titles that can be played on the jukebox. Although Knowles discloses charging a fee for plays, it is completely silent regarding charging a first fee or number of credits for playing back instances of media from the first hard drive, and charging a second fee or number of credits for playing back instances of media from the second hard drive.

Furthermore, the assertion that because multiple prices are disclosed in Knowles, one price has to be higher than the other, is inapposite. Of course, the Final Office Action does not even establish where in Knowles the concept of charging different prices is to be found. But even if such a teaching were present, there simply is no disclosure in Knowles of charging a first fee or number of credits for the playback of instances of media from a first hard drive and charging a second fee or number of credits for the playback of instances of media from a second hard drive. In other words, Knowles is completely silent regarding associating the charged fee or number of credits with the source of the instance of media.

Thus, Applicant respectfully submits that Knowles fails to anticipate the invention of claims 43, 53, and 61 (and their respective dependents).

Rejections under 35 U.S.C. § 103(a)

Claims 71-79 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Knowles in view of Shneidman (U.S. Publication No. 2006/0038794). This rejection is respectfully traversed for at least the following reasons.

Claim 71 recites, *inter alia*, a “user interface comprising a first display screen configured to enable a user to select the instance of media for playback from the first subset of media for a first fee or number of credits, and a second display screen configured to enable a user to select the instance of media for playback from at least the second subset of media for a second fee or number of credits.” The alleged Knowles/Shneidman two-way combination does not disclose these features of claim 71. Thus, the alleged Knowles/Shneidman combination does not render obvious claim 71 (or its dependents).

Although Knowles discloses charging a fee for plays, it is completely silent regarding charging a first fee or number of credits for playing back instances of media via a first display screen, and charging a second fee or number of credits for playing back instances of media via a second display screen. As above, the assertion that because multiple prices are disclosed in Knowles, one price has to be higher than the other, is inapposite. Even if such a teaching were present, there simply is no disclosure in Knowles of charging a first fee or number of credits for the playback of instances of media from a first display screen and charging a second fee or number of credits for the playback of instances of media from a display screen. In other words, Knowles is completely silent regarding associating the charged fee or number of credits with the display screen through which the instance of media was selected.

The introduction of Shneidman fails to make up for this deficiency of Knowles. Thus, even the alleged combination of Knowles and Shneidman fails to disclose the above-noted feature of claim 71. Accordingly, Applicant respectfully submits that the Knowles/Shneidman combination fails to render obvious the invention of claim 71 (or its dependents).

The rejections of claims 46, 50-52, 56, 64, 68-70 as allegedly being made "obvious" by various combinations of Knowles with Shneidman, Official Notice, Bowman-Amuah (U.S. Patent No. 6,289,382), and Dunning et al. (U.S. Patent No. 7,024,485), are respectfully traversed. The fundamental deficiencies of Knowles have been described above, and the introduction of the other references fails to make up for these fundamental deficiencies. Thus, even if the prior art was combinable in the manner alleged in the Final Office Action (which Applicant does not concede), the various combinations of references still fail to render obvious claims 46, 50-52, 56, 64, 68-70.

As a final note, page 13 of the Final Office Action states that “The Examiner takes Official Notice that it is notoriously old and well known in the art to create partitions on a hard drive to separate data of different types in order to prevent complete failure of the hard drive.” Applicant does not understand this statement and certainly does not acquiesce to its propriety. Indeed, there are many different types of hard drive failures that would cause the entire hard drive to fail, irrespective of any partitions (e.g., damage to internal components of the hard drive, proximity to strong magnetic waves, etc.). With respect to the specific example provided in the Final Office Action, Applicant notes that if a partition was created simply to separate different types of data within a common operating system (as is the case with certain exemplary embodiments of Applicant’s claimed invention), the corruption of the file allocation table (FAT) would not be confined to a particular partition, and the failure would not be prevented. Inasmuch as the rejection of claims 43, 53, and 61 has been traversed on other grounds (see discussion above), further discussion of the deficiencies of this officially noticed “fact” are not necessary at this time. However, at least in view of the counterarguments supplied herein, the Examiner is respectfully requested to come forth with evidence to support the officially noticed “fact” in the event that the Examiner continues to rely on the same in a new Office Action.

Conclusion

Applicant believes that all of the pending claims clearly and patentably distinguish the prior art of record and are in condition for allowance. Thus, passage of this case to issuance at an early date is earnestly solicited.

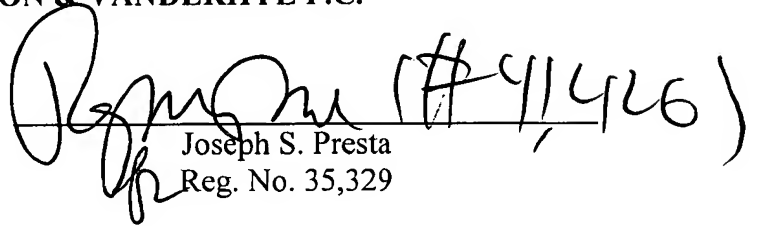
NATHAN et al.
Appl. No. 10/661,811
November 14, 2008

Should the Examiner have any questions, or deem that any further issues need to be addressed prior to allowance, the Examiner is invited to call the undersigned attorney at the phone number below.

Respectfully submitted,

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